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JAN 31 2002

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY OFFICE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE
(PPA) PRODUCTS LIABILITY
LITIGATION,

MDL NO. 1407

This document relates to:
McCormach, et al. v.
Schering-Plough Corp.
(C01-303R); Rasmussen, et al.
v. GlaxoSmithKline Corp., et
al. (C01-304R); Dietschi, et
al. v. American Home Products
Corp. (C01-306R); Knight, et
al. v. Bayer Corp. (C01-307R);
French, et al. v. Bristol-
Myers Squibb Co. (C01-308R);
Crichton, et al. v. Novartis
Corp., et al. (C01-309R)

SCHEDULING ORDER GOVERNING
DISCOVERY AND BRIEFING OF
CLASS CERTIFICATION ISSUE
IN ECONOMIC INJURY PUTATIVE
CLASS ACTIONS

The parties having agreed to entry of the following order
regarding discovery and briefing of the class certification issue
in the above-captioned actions, and the court having heard
argument on the few outstanding issues in dispute, it is hereby
ordered:

CLASS CERTIFICATION DISCOVERY AND BRIEFING SCHEDULE

The following schedule shall apply in these cases:

Event

Date

Class Discovery (non-expert) Begins,
Subject to Section II Herein Regard-
ing Stipulations by Defendants

December 20, 2001

ORDER

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<u>Event</u>	<u>Date</u>
Last Day to Join New Parties	January 31, 2002
Last Day for Defendants to Provide Stipulations In Lieu of Class Certification Discovery Pursuant to Section II Herein	January 31, 2002
Class Certification Discovery (non-expert) Ends	February 15, 2002
Plaintiffs to File Briefs and any Expert Reports in Support of Their motions for Class Certification	March 1, 2002
Defendants to File Motion for Judgment on the Pleadings Dismissing Plaintiffs' Claims for Injunctive Relief in the Form of Emergency Notice, and Brief in Support	March 1, 2002
Last Day for Plaintiffs to Produce Experts Relating to Class Issues for Deposition	As soon after service of each expert's report that defendants are ready to take deposition
Defendants to File Briefs and any Expert Reports in Opposition to Class Certification	April 12, 2002
Plaintiffs to File Brief in Opposition to Defendants' Motion for Judgment on the Pleadings Dismissing Plaintiffs' Claims for Injunctive Relief in the Form of Emergency Notice	April 12, 2002
Last Day for Defendants to Produce Experts Relating to Class Issues for Deposition	As soon after service of each expert's report that plaintiffs are ready to take deposition
Plaintiffs to File Reply Brief and Rebuttal Expert Reports, if any, on Class Certification Issues	May 13, 2002

ORDER

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1 Event

2 Defendants to File Reply Brief, May 13, 2002
3 if any, in Support of Motion for
4 Judgment on the Pleadings
5 Dismissing Plaintiffs' Claims for
6 Injunctive Relief in the Form of
7 Emergency Notice

8 Hearing on Class Certification To Be Determined
9 Motion and on Motion for Judgment
10 on the Pleadings Regarding
11 Plaintiffs' Claims for Injunctive
12 Relief in the Form of Emergency
13 Notice

14 STIPULATIONS AND DISCOVERY REGARDING
15 CLASS CERTIFICATION ISSUES

16 In lieu of responding to discovery requests on class certif-
17 ication issues, defendants in each action, no later than January
18 31, 2002, shall stipulate to the following facts, to the extent
19 that defendants have information relating to each fact:

- 20 • The cough, cold and allergy products sold by the defendant
21 since 1994 that contained PPA.
- 22 • The geographic area in which such products were sold.
- 23 • The time period during which such products were sold.
- 24 • Whether the defendant conducted any recall or refund
25 program concerning such products.
- 26 • A description of the elements and duration of any such
recall or refund program.
- The reasons given by the defendant for conducting any such
program.
- The effectiveness of any such program.

- 1 • Any information the defendant has concerning the extent
2 to which consumers are aware or were made aware of the
3 alleged stroke risks of PPA discussed in the article
4 Kernan, et al., "Phenylpropanolomine and the Risk of
5 Hemorrhagic Stroke," 343 *New Eng. J. Med.* 1826 (Dec. 21,
6 2000) ("the Yale Study"), as a result of notification
7 efforts made by the FDA, the defendant, or any other
8 source.

9 If any defendant fails to provide a stipulated fact required
10 hereunder, the parties shall promptly and in good faith confer
11 and attempt to resolve their differences. If the parties cannot
12 resolve their differences without court intervention, plaintiffs
13 may move to compel the production of a satisfactory stipulation
14 within five days of (i) receipt of the stipulation in dispute or
15 (ii) the deadline for receipt of a stipulation, if none is
16 provided, and the respective defendant shall respond to such
17 motion within five days.

18 19 LENGTH OF BRIEFS

20 Plaintiffs' master brief in support of class certification
21 as to all defendants shall not exceed 50 pages. If necessary,
22 plaintiffs shall file briefs addressing individual defendant
23 specific issues not to exceed 10 pages.

24 Defendants in one action shall submit one master brief on
25 behalf of defendants in all actions, not to exceed 50 pages, in
26 opposition to plaintiffs' motion for class certification.

ORDER

1 Defendants in each of the remaining five actions shall submit a
2 supplemental brief, not to exceed 20 pages, addressing facts
3 specific to the claims in that action.

4 Plaintiffs' reply brief in support of class certification
5 shall not exceed 25 pages.

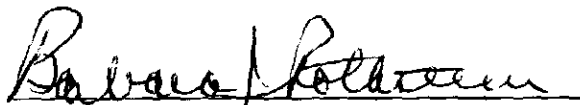
6
7 SCOPE OF CLASS BRIEFING AND NEW EXPERTS

8 The court grants plaintiffs' request that they be allowed to
9 designate a new expert to address damages in the economic injury
10 cases.

11
12 TIMING OF ECONOMIC INJURY CLASS
13 ACTION MERITS DISCOVERY

14 The court finds that aside from the issues the parties have
15 been able to agree to, discovery unique to the economic injury
16 class actions shall not go forward until such time as the court
17 rules on the motions for class certification.

18 DATED at Seattle, Washington this 31st day of January, 2002.

19
20 
21 BARBARA JACOBS ROTHSTEIN
22 UNITED STATES DISTRICT JUDGE
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